

# Expiration and Certification Process

Updated to reflect 19 RS HB 4 information.

[Ky Acts Chapter 192.](#)

# Main Summary

- ▶ **Sunset Law** for Ordinary Regulations remains
- ▶ Regs continue to expire on a **Seven Year Cycle**:
  - ▶ Newer Regs – Seven Years
  - ▶ Older Regs – (Before 3/1/13) – **March 1, 2020**

# Brief Synopsis

## To Avoid Expiration:

- ▶ Review Regulation; and
- ▶ File Certification Letter Stating:
  - ▶ Will Amend; or
  - ▶ Keep In Effect "As Is"

**Note:** Amended regulation due within 18 months after certification letter is filed

# Brief Synopsis

## KEY = LAST EFFECTIVE DATE

Determines when:

- ▶ Regulation expires
- ▶ Certification letter is due to keep regulation in place



# Brief Synopsis

## LAST EFFECTIVE DATE\*

- ▶ Last time regulation went through KRS Chapter 13A review process; or
- ▶ Date certification letter was filed stating keep in effect "as is"

\* Not affected by technical amendments or recodifications

# Brief Synopsis

## LAST EFFECTIVE DATES

Regulations Compiler:

- ▶ Maintains and publishes list of all regulation numbers and last effective dates; and
- ▶ Publishes certification letters

# Brief Synopsis

## Keep in Mind:

- ▶ Can still amend regulations at any time
- ▶ KRS Chapter 13A filing and legislative review process continues
- ▶ Certification letters affect regulations not routinely updated and amended
- ▶ Cycle is continuous

# Agency Responsibilities

- (1) Last Effective Date*
- (2) Classification as **GROUP 1** or **GROUP 2***
- (3) Calculation of Expiration Date*
- (4) Agency Compliance Review*
- (5) Certification Letter*
- (6) Possible Amendment*



# Agency Responsibilities: Details

(1) Keep track of the “**last effective date**”

- ▶ History Line
- ▶ Compiler’s List – published every 6 months
- ▶ If discrepancies are found, contact the Regulations Compiler

(2) Classify the regulation in one of two groups:

**GROUP 1:** Last eff. date – **ON or BEFORE March 1, 2013**

**GROUP 2:** Last eff. date – **AFTER March 1, 2013**

(3) Calculate the expiration date:

**GROUP 1:** **Expires on March 1, 2013**

***UNLESS*** a certification letter is filed

**GROUP 2:** Expires **7 years after last effective date**

***UNLESS*** a certification letter is filed

(4) Prior to its expiration date:

- ▶ Agency reviews regulation for compliance with relevant laws
- ▶ Files a certification letter with the Regulations Compiler
- ▶ States in the letter whether the agency has determined to:
  1. Keep the regulation "in effect;" or
  2. Amend the regulation

(5) If the filed certification letter states that the regulation should be:

**Kept “IN EFFECT”:**

New “last effective date” = date certification letter filed

**Amended:**

New “last effective date” = date regulation completes  
KRS Chapter 13A filing and  
legislative review process  
(KRS 13A.330)



(6) If the agency chooses to amend the regulation, it has **18 months** to file a proposed amendment with the Regulations Compiler using the KRS Chapter 13A filing and legislative review process

## **Certification Letter Contents** (KRS 13A.3104)

- ▶ Format prescribed by regulations compiler  
(See templates on LRC Web site)
- ▶ Letter requirements:
  - ▶ On agency letterhead
  - ▶ Name of Administrative Body
  - ▶ Regulation number and title
  - ▶ Statement whether the regulation will:
    1. Be amended; or
    2. Remain in effect without amendment
  - ▶ Brief explanation regarding the decision to amend or not amend the regulation

## Regulation will expire if:

- (1) Certification letter is NOT filed by the expiration deadline;
- (2) Certification letter is filed with plan to amend, but no amendment filed within 18 months; or
- (3) Proposed amendment to the regulation is:
  - Withdrawn
  - OR
  - Ceases to continue through the promulgation process

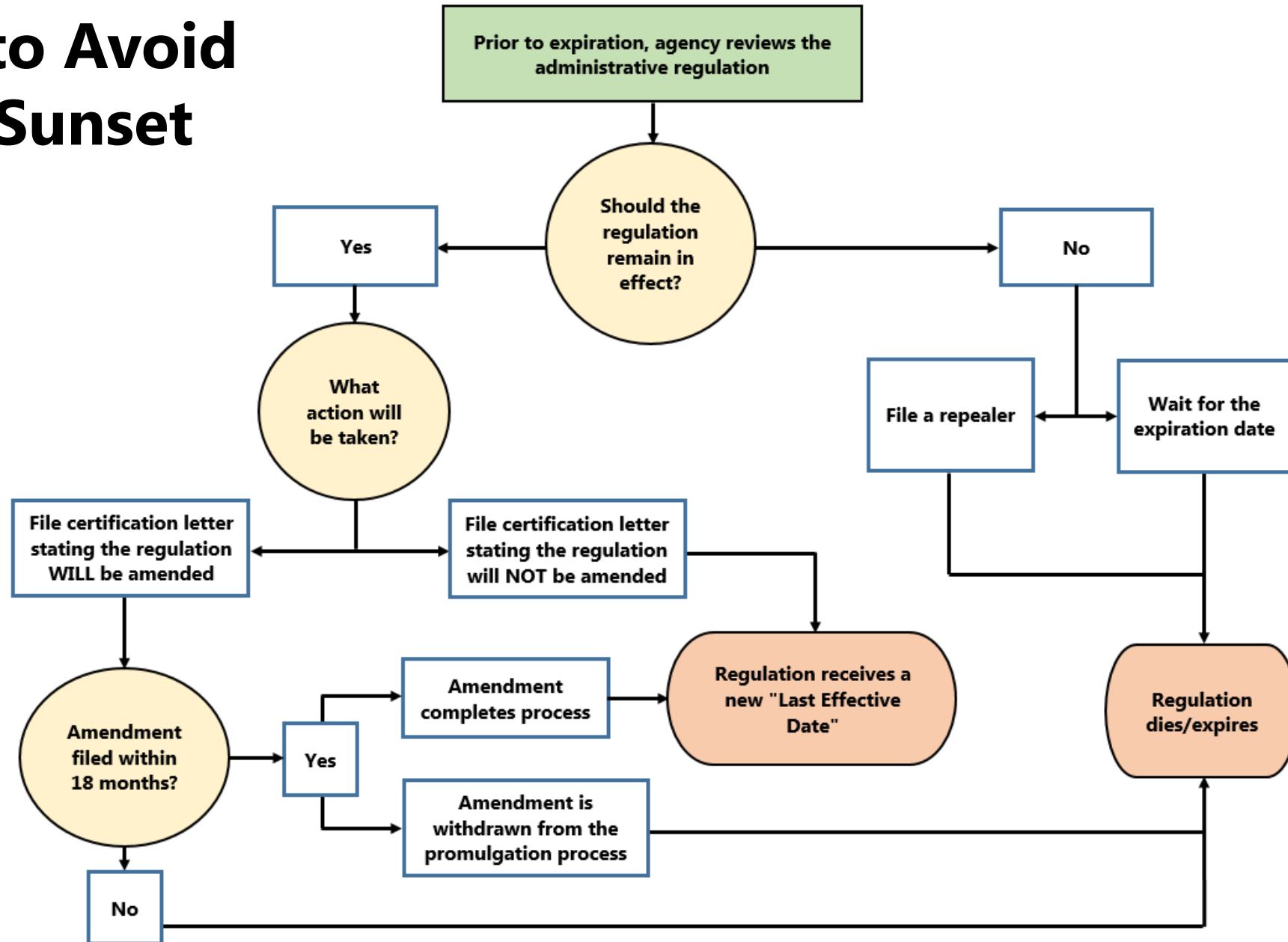




## **Expired regulation**

**If a regulation expires and the agency did not intend for it to expire, the only way to put the regulation back on the books is through the KRS Chapter 13A filing and legislative review process**

# Process to Avoid 7-year Sunset



# Regulations Compiler Responsibilities

- ▶ Maintain lists
  - ▶ Last effective dates
  - ▶ Expiration dates
  - ▶ Expired regulations
- ▶ Process and file letters
  - ▶ To Be Amended – determine new deadline
  - ▶ Not Amending – update last effective date

- ▶ Publish letters in the *Administrative Register of Kentucky*
- ▶ Update history lines
- ▶ Process expired regs
  - ▶ Remove regs from admin. Code
  - ▶ Add to expired index and publish updates
  - ▶ Active file moves to dead files

## Hints and Tips

- ▶ Use certification process to avoid expiration – especially for regulations expiring on **March 1, 2020**
- ▶ Can still amend as normal; don't have to wait until end of 7-year cycle
- ▶ Do not need to wait until the day, week, or even month of expiration to file certification letters
- ▶ If certification states a regulation needs amending, don't forget 18-month filing deadline